

No. 9/1/87-6Lab./9110.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Kurukshetra Central Co-operative Bank Limited, Kurukshetra.

BEFORE SHRI K. K. DODA, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 225 of 1984

between

SHRI BABU RAM, WORKMAN AND THE RESPONDENT MANAGEMENT OF M/S.  
KURUKSHETRA CENTRAL CO-OPERATIVE BANK LIMITED, KURUKSHETRA

Present.—Workman with Shri W.R. Shri Madhu Sudan.

M.R. Shri Vidya Bhushan, Establishment Officer.

### AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Hon'ble Governor of Haryana referred the following dispute between Shri Babu Ram, workman and the respondent management of M/s. Kurukshetra Central Co-operative Bank Limited, Kurukshetra, to this Court, for adjudication:—

Whether the termination of services of Shri Babu Ram is justified and in order? If not, to what relief is he entitled?

2. Workman's case stated in his demand notice dated 14th January, 1980 is that he worked with the respondent society from 7th October, 1976 as secretary and later on worked as Mini Bank Manager. He alleged that he was terminated illegally by the management,—*vide* order dated 31st March, 1981. He prayed for reinstatement with continuity in service and full back wages.

3. Management contested the claim of the workman in terms of written statement dated 23rd April, 1981. In brief, management pleaded that the claimant Shri Babu Ram was on probation for two years which could be extended for further period of one year. Under the contract of service and said rules services of Shri Babu Ram could be terminated during the period of probation at any time without notice and without offering any opportunity of hearing. The work and conduct of Babu Ram was reviewed by the Board of Directors in its meeting held on 31st March, 1978 and was not found satisfactory. In the result, Babu Ram's probation period was extended for further period of one year, under rule 5(v). There were charges of embezzlement against him. The Board of Directors considered his case in its meeting on 31st March, 1987 and terminated his services, in accordance with the contract of service under rule 5(v) of Common Cadre rules.

4. The then learned Presiding Officer, Labour Court,—*vide* order dated 26th November, 1981 framed following issues:—

Whether the termination of services of the workman is justified and in order? If not, to what relief is he entitled?

5. Both the parties did produce evidence to their satisfaction.

6. As the interim order speaks, the case was adjourned *sine die* for awaiting of the decision of the Hon'ble High Court on the point of jurisdiction.

7. This case came up before me on 17th July, 1987 for the first time when it was pending for arguments. Then there was move for amicable settlement and compromise.

8. At last, better sense prevailed upon both the parties and there happened to be an amicable settlement between them. Establishment Officer Shri Vidhya Bhusan produced three documents today, i.e. application dated 8th October, 1987 of Shri Babu Ram, copy of Resolution No. 4 passed by the Administrative Committee of the Kurukshetra Central Coop. Bank, Kurukshetra; and application moved to this Court by the Managing Director of the Bank. In the resolution and in the application, there is mention of terms and conditions of settlement. Copies of these documents were given to the workman and he was allowed sufficient time to think over. Thereafter, the claimant/workman Shri Babu Ram gave a statement agreeing to the terms of settlement given in the above documents.

9. I am satisfied that the parties have entered into a genuine settlement which shall bring an end to the long standing litigation.

10. The management as per terms and conditions, has undertaken to re-appoint Shri Babu Ram as Secretary by giving him the benefit of continuity of service but without backwages. Management has agreed to pay the salary for the months of November, 1978 to 5th February, 1979 and subsistence allowance from 6th February, 1979 to 29th April, 1979 to Shri Babu Ram and one month's salary as expenses of the case. The workman has undertaken not to claim any benefit of backwages etc. Both the parties have undertaken to abide by the above terms and conditions and they are ordered to comply with accordingly.

11. In view of above settlement between the parties, the order,—*vide* which the workman was terminated by the management is liable to be set aside and it is so ordered. There is now no dispute between the parties and this reference stands answered accordingly.

The 30th October, 1987

K. K. DODA,

Presiding Officer,  
Labour Court, Ambala.

Enrolment No. 2456, dated 30th October, 1987.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of I.D. Act.

K. K. DODA,

Presiding Officer,  
Labour Court, Ambala.

No. 9/1/87-6Lab./9111.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court Ambala in respect of the dispute between the workman and the management of M/S. Super Rubber Enterprises, 17/3, Mile Stone, G.T. Road, Karnal.

BEFORE SHRI K. K. DODA, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 45 of 1984

*between*

SHRI RAJENDER PARSHAD, WORKMAN AND THE RESPONDENT-MANAGEMENT OF M/S.  
SUPER RUBBER, ENTERPRISES, 17/3, MILE STONE, G.T. ROAD, KARNAL

#### AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Hon'ble Governor of Haryana referred the following dispute between Shri Rajender Parshad, workman and the respondent-management of M/s. Super Rubber Enterprises, 17/3, Miles Stone, G.T. Road, Karnal to this Court for adjudication :—

Whether the termination of services of Shri Rajender Parshad is justified and in order ? If not, to what relief is he entitled ?

2. Workman Shri Rajender Parshad's case set up by him in his claim statement filed on 20th September, 1984, in brief, is that he had been working in the factory of the respondent since 11th March, 1982 and had worked for more than 240 days. He alleged that he was terminated on 1st August, 1983 without any reason. No notice of any kind was given to him nor any compensation amount was paid to him before his termination. Neither any enquiry was held nor any show cause notice was issued to him. He pointed out that the management had taken his signatures/thumb impressions on some papers under pressure and on misrepresentation, suggesting that FSI scheme was being implemented in the factory. Signatures/thumb impressions of many workers were obtained on some papers. Management might have utilized those signatures for forging a document to their liking. He had not given in writing any matter to the respondent-management which could go against him. He termed his termination as illegal, un-justified and, as a result of un-fair labour practice. Immediately after his termination he had approached the labour Inspector but of no avail. He prayed for his reinstatement which continuity of service and full back wages.

3. Management apposed and contested the claim of the workman in terms of written statement filed on 12th October, 1984. Specifically pleaded that the workman had submitted his resignation voluntarily and without any coercion. Denied all other contention and allegations of the workman. Further pleaded that the

workman had not worked for a period of 240 days. Raised objections that the workman had no *locus standi* claim was not maintainable and this Court had no jurisdiction. Stressed that the workman had made false complaint with the Labour Inspector.

4. Workman filed rejoinder denying the contentions of the management. Denied that he had submitted his resignation. He asserted that all had happened under force and coercion and that he was forced to report to the police regarding obtaining of his signatures by the management by force.

5. Following issues were laid down by my learned predecessor for decision :—

- (i) Whether termination order of the services of applicant, dated 1st August, 1983 is legal, if not, to what relief applicant is entitled to ? (OPR)
- (ii) Whether applicant has got no *locus standi* to file the present claim ? (OPR)
- (iii) Whether application is not maintainable in the present form ? (OPM)
- (iv) Whether this court has got no jurisdiction to try the dispute in question ? (OPR)
- (v) Relief ?

6. Management examined Ramji Lal, General Supervisor and Suresh Kumar, Accountant. Reliance has been placed upon photo stat copy Ex. M-1 of ESI Corporation declaration form prepared on 1st September, 1982, photo stat copy Ex. M-2 of the resignation (in Hindi) dated 28th July, 1983 submitted by the workman and copies Ex. M-3 and M-4 of the wages and attendance register. On the other hand, workman appeared in his own evidence and examined Shri Bhim Sain, Clerk, Labour Inspector, Karnal. Workman referred to the photo stat copy Ex. A/1 his identity card of ESI Corporation, photo stat copy Ex. A/2 of his complaint, dated 3rd August, 1983 made to the Labour Inspector, Karnal and photo stat copy Ex. A/3 of report of Labour-cum-Conciliation Officer, Panipat, regarding his demand notice dated 1st September, 1983. Management,—vide order dated 27th April, 1984 passed by my learned predecessor, was allowed to produce additional evidence. Management examined Shri Faquir Chand Sharma, Personnel Manager. He stated, in brief, that Shri J.P. Singh who had allegedly appeared for the management before the Labour-cum-Conciliation Officer, was not a duly authorised representative of the management.

7. This case came up before me for the first time on 15th June, 1987 when statement of Faquir Chand was recorded. Workman was allowed to produce rebuttal. Workman's representative produced photo stat copy Ex. W-X of the proceedings, dated 9th August, 1983 recorded by the Labour-cum-Conciliation Officer in dispute between Super Rubber and Super Rubber Enterprises Workers Union. (According to its contents one Shri J.P. Singh had appeared for the management. Copy Ex. W-X of temporary identification certificate, dated 7th January, 1983 in the name of one Dhurandam, has also been produced.

8. Shri N.R. Munjal and J.B. Yadav represented the workman and Shri Vijay Kumar represented the management.

9. I have carefully gone through the pleadings and oral as well as documentary evidence with requisite anxiety. The learned representative of both the parties have also been heard to their satisfaction. My findings on the issues with the reasons are as under :—

#### Issue No. I :

10. Simple question to be determined is whether the workman had submitted his resignation, so that he was terminated from the services with effect from 1st August, 1983.

11. Learned representative of the workman submitted following points and evidence on record in support of workman's plea that he had been illegally terminated by the management with effect from 1st August, 1983 :—

1. Workman has denied that he had submitted his resignation (photo copy Ex. M-2)
2. Workman had admittedly completed more than 240 days of service and there was no cause or occasion for him to submit resignation.
3. When the workman was not taken on job on 1st August, 1983 he immediately filed a complaint before the Labour Inspector, Karnal (photo stat copy Ex. A/2.)
4. Management's representative Shri J.P. Singh had appeared on 19th August, 1983 before the Labour Inspector, in response to the complaint of the workman. It was never stated before

the Labour Inspector on behalf of the management that the workman had submitted any resignation. It was rather stated that the workman had been employed for fixed period of five months and that he had been terminated after the completion of the period. It means that the document purporting to the resignation of the workman was forged by the management.

5. The contents of report Ex. A/3 of the Labour-cum-Conciliation Officer with regard to workman's demand notice dated 1st September, 1987 make it clear that it was never the case of the management that the workman had submitted any resignation. It was rather stated that the workman had been removed legally when he had completed only 187 days service. Further stated that the management had also paid wages and compensation to the workman.
6. The workman has clarified in his evidence that his signatures on blank paper were obtained by the official of the management. Perhaps that blank paper containing signature of the workman was utilized for preparing resignation of the workman.
7. Management has not been able to prove as who had scribed the resignation and before whom the same was signed by the workman. Evidence of both, the witnesses of the management is discrepant of this point.
8. It is an admitted case that no retrenchment compensation was paid to the workman before his termination.
12. The learned representative of the management submitted following points for consideration :—
  1. Signatures of the workman appearing on other papers of the judicial record tally with the signatures appearing on the resignation.
  2. It is not at all the case of the workman that any official of the management had compelled or pressurised him to submit resignation.
  3. There is variance between pleadings and evidence of the workman.
  4. Shri J. P. Singh was never appointed a representative by the management nor was authorised to make any submission before the Labour Inspector. There was no authority letter in the name of Shri J. P. Singh in the records of the Labour Inspector produced by Shri Bhim Sair, AW-2.
  5. Report of Labour-cum-Conciliation Officer, Panipat is silent on the point as to who had represented the management. No official of the said office has been examined for clarification.
  6. Management cannot be expected to explain the circumstances under which a worker submits his resignation.

13. Keeping in mind the above contentions of learned representatives of both the parties, I have again gone through the entire material on record with requisite anxiety. To me, it is clear that the workman had submitted his resignation, dated 28th July, 1983 stating that he would not report on duty after 30th July, 1983. He had submitted his resignation voluntarily and without any compulsion and pressure upon him. Reasons of my these observations are as under :—

14. (i) In his demand notice in para No. 3 he has stated that his signatures were obtained on a blank paper on this understanding that his ESI was to be got enforced. In para No. 3 of the claim statement he again repeated these allegations and added that his signatures or thumb impressions were obtained on some papers. Significantly, the workman in his evidence in examination in the Chief, has stated that he had not submitted any resignation and that the management had obtained his signatures on a blank paper at the time of disbursement of bonus. Above statement of the applicant is not at all the confirmity with his pleadings stated in his demand notice and claim statement. In his cross-examination he again confirmed his above statement and stated that other contentions stated on his behalf in the demand notice and claim statement were not correct. The fact that the workman in his proceedings has referred to his signatures on some blank papers gives rise to this inference that he was in the know of the resignation submitted by him and he wanted to deny it by making one or other explanation.

(ii) Workman has admitted in his cross-examination that he had no personal enmity with any official of the management. In view of this statement. I fail to understand why any official of the management should have prepared a false resignation on behalf of the workman.

(iii) In his cross-examination he alleged that Shri A.K. Tiwari had obtained his signatures at the gate by threatening him that he would terminate him if he did not append his signatures. But this story was never put by the workman to any of the witnesses of management nor it has been stated in the pleadings. He has not dared examining Shri A.K. Tiwari.

(iv) In his claim statement the workman stated that he had reported the matter to the police, regarding obtaining of signatures on a blank paper. But in his evidence he has categorically denied that he had made any report to the police. In this context it is necessary to mention here that the workman does not belong to Haryana but he hails from some other State. It is manifest from the statement of AW-2 Shri Bhim Sain that he was not present when Labour Inspector had recorded the proceedings on 19th August, 1983. He admitted that there was no letter of authority in favour of Shri J.P. Singh on the records. There is, thus no reliable evidence on record before this Court on the basis of which it could be held that Shri J.P. Singh was an authorised representative of the management or that he was authorised by the management to give any statement before the Labour Inspector regarding the complaint dated 3rd August, 1983 of the workman. Under these circumstances, what ever Shri J.P. Singh stated before the Labour Inspector cannot be taken as statement made on behalf of the management. Similarly, it does not stand proved as to who had appeared before the Labour-cum-Conciliation Officer, on behalf of the management during conciliation proceedings, in pursuance to the demand notice submitted by the workman. It has become necessary to mention here that the story of signatures on blank papers was not put forth by the workman before the Labour Inspector and Labour-cum-Conciliation Officer.

(v) There is no contradiction in between MW-1 Ramji Lal and MW-2 Shri Suresh Kumar. These witnesses have stated that the resignation was not scribed by the workman or was got scribed by the workman in their presence. It stands proved from the evidence of the witnesses that resignation of the workman was accepted by the management and the workman was paid his dues. It is not at all the case of workman that he was not paid his dues and that he was paid less wages. Evidence of MW-2 Suresh Kumar stands corroborated by the official record contained in Ex. M-3 and Ex. M-4. Signatures of the workman appearing on judicial record tally with the signatures appearing on the photo stat copy Ex. M-2 of the resignation. As the record speaks, original resignation was produced at the time of examination of the witnesses.

15. As a consequence of discussion made above, issue No. 1 is decided in favour of the management. It is held that the workman was not terminated but he had himself submitted his resignation on 28th July, 1983 and the same was accepted by the management.

Issue Nos. 2, 3 & 4:

16. Learned representative of the management did not address any argument on these issues. I find no legal defect in maintainability of reference. Workman did have *locus standi*. This court has jurisdiction to adjudicate upon the reference in question. All these issues are decided against the management.

Relief :

17. As a consequence of observation made above and findings arrived at the issues, it is held that the workman was not terminated from his services but he had himself submitted his resignation dated 28th July, 1983. Workman Shri Rajender Parshad is not entitled for any relief.

18. Reference is answered accordingly.

Dated : 20th October, 1987.

K.K. DODA,

Presiding Officer,  
Labour Court, Ambala.

Endst. No. 2457, dated 30th October, 1987.

Forwarded (four copies) to the Commissioner & Secretary to Government Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of Industrial Disputes Act.

K. K. DODA,

Presiding Officer,  
Labour Court, Ambala.

MEENAXI ANAND CHAUDHRY,

Commissioner & Secretary to Government, Haryana,  
Labour & Employment Departments.